IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2655 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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VALJIBHAI JAYRAMBHAI VANKAR & 28 - Petitioner(s)

Versus

STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :

MR SK BUKHARI for Petitioner(s) : 1,None for Petitioner(s) : None for Petitioner No(s).: for Petitioner(s) : 2 - 29.
Ms. Archana Raval, AGP for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 12/01/2006

ORAL JUDGMENT

By way of this petition under Article 226 of the Constitution of India the petitioners have challenged the Notification dated 1st January 1999 issued by the respondent No.1, i.e. State of Gujarat in Industries and Mines Department, in amending the

Gujarat Mines and Mineral Rules, 1966 while exercising powers under Section 15 of Mines and Minerals (Regulation and Development) Act, 1957 by which the dead rent has been increased and applicable to the petitioners lease-holders who have obtained lease in private land.

2. It is the contention on behalf of the petitioners that so far as other items are concerned the dead-rent has been increased by only 1½ times, however in case of petitioners it has been increased by 2½ times, i.e., from Rs. 8000 to Rs. 20,000 which is too harsh and excessive and it will not be possible for the petitioners to bear the same. No other submission has been made.

3. As held by the Hon'ble Supreme Court in the case of Prafulla Kumar Das And Others Vs. State of Orissa and Others, reported in (2003) 11 S.C.C. 614, mere hardship is no ground for striking down a valid legislation. The question of validity of the notification and the competence of the respondents in amending the Rules is not disputed by the petitioners. On the contrary, the Gujarat Mines and Mineral Rules are amended in exercise of powers conferred by Section 15 of the Mines and Minerals (Regulation and Development) Act, 1957. Under the circumstances, it cannot be said that the said Notification is without jurisdiction. In view of the

above and in view of the judgment of the Hon'ble Supreme Court that mere hardship is no ground for striking down a valid legislation, there is no substance in the present Special Civil Application and the same requires to be dismissed and it is accordingly dismissed. Rule is discharged, however, with no order as to costs.

[M.R. Shah, J.]

RMR.